

August 21, 2018

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Development, WT Docket No. 17-79; In the Matter of Comment Sought on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies; Mobilitie, LLC Petition for Declaratory Ruling, WT Docket No. 16-421*

Dear Ms. Dortch,

Please accept this letter for filing in the above-referenced dockets on behalf of Douglas County, Colorado. Douglas County (the "County") is located in the South Denver-Metro area and is the centerpiece of the Denver/Colorado Springs development corridor. The County prides itself on its ability to work cooperatively and efficiently with business interests for the betterment of the County, and that cooperative relationship has historically included working with the telecom industry to facilitate greater access to wireless communications service throughout the County. While the County has typically found applicants to share its goals of cooperation and expediency, it regretfully found the opposite to be true with respect to a § 6409(a) application submitted by Crown Castle last year. Although the County worked diligently to provide an appropriate avenue for the applicant to secure facility upgrades, and remains willing to do so, Crown Castle's conduct has spurred needless conflict and delay. The County is filing this information to correct misleading information that Crown Castle filed in its letter dated August 10, 2018 regarding its interactions with the County.

Crown Castle and T-Mobile submitted a request for approval of modifications to one of its existing facilities under § 6409(a) in Douglas County in May 2017. The existing facility, which is located near a heavily traveled highway, was initially approved and constructed in 2002 as a stealth design, mirroring existing utility poles in the area. The modifications proposed in 2017 would have more than doubled the width of the upper 10 to 11 feet of the existing 35-foot pole, completely defeating the stealth design of the existing structure.

In June 2017, County staff met with the applicants and informed them that the pending EFR application ***could not be approved*** because it would defeat the stealth element of the pole's

design. At that same meeting, County staff offered multiple suggestions on other avenues, including a site improvement plan, that were available to the applicants to upgrade their facility. Staff's determination, rationale and suggested alternatives were timely issued in writing one week later. Upon receipt of that written determination, the initial application was no longer pending in any respects, and it was up to the applicants to determine if they wanted to proceed with an application under one of the alternative processes suggested by County staff. The applicants chose not to move forward with the proposed alternatives and ceased discussions with the County regarding that facility in July 2017. Under local law, if the applicants wished to challenge the decision of the County to reject the application, they had 30 days from the date of the rejection to do so. No such action was ever filed.

Months later, in late October, County staff received a letter from the applicants' counsel claiming that the County had misconstrued § 6409(a), that the applicants' proposed modifications could not be deemed to defeat the concealment elements of the existing structure, and that the May 2017 application, which was rejected in June 2017, should have been granted. The applicants' counsel disingenuously claimed the letter was being submitted in response to a County request for "additional information" which, in fact, the County never made and would have been untimely even if it had. The applicants' counsel went on to claim that it was "restarting" the 60-day shot clock.

Counsel for the County responded, explaining that there was no pending application for the subject facility that would allow a shot-clock to be "restarted." Shortly thereafter, on December 1, 2017, the applicants' counsel declared their May 2017 application to be deemed granted and insisted that the County file suit if it believed otherwise. Because the applicants' conduct appeared to be a blatantly manufactured attempt to revive the long-elapsed 30-day deadline for challenging staff's June 2017 determination, the County did as the applicants' counsel suggested and filed suit to seek a court determination as to the rights of the parties under these circumstances.

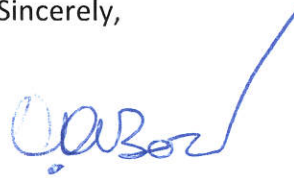
Crown Castle's August 10, 2018 *ex parte* letter is misleading in that it (i) fails to detail the intensity of the "modification" requested and describe how that impacted the County's consideration of whether it would defeat the concealment elements of the approved site (had Crown shared the actual submittal drawings this would have been obvious); (ii) fails to acknowledge that it sat on its rights for four months after the County rejected the application, which under state law terminated its legal ability to challenge the County's action; and (iii) fails to advise the Commission that the County's filing of a declaratory judgment action was not its intention, but rather came as the result of the applicant's counsel's demand that it either accept its twisted and inaccurate description of the facts or file suit.

The County questions how due process requirements are met when Crown Castle can make these misleading allegations against the County as part of its effort to support federal rules

preempting traditional areas of local control without providing the County notice of its claims. Despite Crown Castle's failure to provide notice, the County is providing Crown Castle with notice of this filing. Douglas County, Colorado respectfully suggests that given Crown Castle's misleading claims against the County, and its apparent hope that by failing to advise the County of its claims that the County would be unable to respond, that the Commission refuse to consider those claims in its decision in these dockets. In the case of any jurisdictions that were not provided notice of filings against them alleging actions supporting federal preemption, the County suggests that the Commission reject any preemption ruling unless and until it conducts a more detailed fact-finding effort to ensure that all parties have an opportunity to respond to allegations that are made against them.

Douglas County appreciates the opportunity to set the record straight in connection with Crown Castle's misleading allegations in these dockets.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. DeBord", with a long, sweeping flourish extending upwards and to the right.

Douglas J. DeBord  
County Manager